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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,007	10/17/2000	Harry W. Morris	06975-058001 / Ad Serving	1832

26171	7590	07/28/2004

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EXAMINER
PHAN, TAM T

ART UNIT	PAPER NUMBER
2144	

DATE MAILED: 07/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	09/690,007	MORRIS ET AL.
Office Action Summary	Examiner	Art Unit	
	Tam (Jenny) Phan	2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04/30/2004</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-28,55-57 and 64-70</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-28,55-57 and 64-70</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>17 November 2000</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date <u>05/14/2004</u>.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1.   This application has been examined. Amendment A, received on 04/30/2004 has been entered into record. Claims 29-54 and 58-63 are cancelled due restriction requirements. Claims 1-2, 8-10, 12-13, 15-28, 55-56 are amended. Claims 64-70 are newly added.

2.   Claims 1-28, 55-57, and 64-70 remain pending.

Priority

3.   This application claims benefit of the provisional application 60/195991 (04/07/2000).

4.   The effective filing date for the subject matter defined in the pending claims, which has support in parent 60/195991 in this application, is 04/07/2000. Any new subject mater defined in the claims not previously disclosed in parent 60/195991, is entitled to the effective filing date of 10/17/2000.

Information Disclosure Statement

5.   An initialed and dated copy of Applicant's IDS form 1449, Received 05/14/2004, is attached to the instant Office action.

Drawings

6.   This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 1-28, 55-57, and 64-70 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Blumenau (U.S. Patent Number 6,108,637) in view of Guyot et al. (U.S. Patent Number

6,119,098), hereinafter referred to as Guyot.

9.   Regarding claim 1, Blumenau disclosed a method of presenting advertising to viewers in

a computer network environment, the method comprising: monitoring a viewer's interactions

with an associated computer system determining an amount of time to be used in later displaying

advertisements on the viewer's associated computer system based on the viewer's monitored

interactions (Title, Abstract, column 7 lines 58-65, column 13 lines 51-58, column 14 lines 7-

19).

10.   Blumenau taught the invention substantially as claimed, however, Blumenau did not

expressly teach a method of adjusting a timing of later displayed advertisements on the viewer's

associated computer system based on one or more of the viewer's monitored interactions.

11.   Blumenau suggested exploration of art and/or provided a reason to modify the method of

presenting advertisement to include a step of adjusting timing (column 18 lines 38-56, column 20

lines 23-36).

12.   Guyot disclosed a method of adjusting a timing of later displayed advertisements on the

viewer's associated computer system based on the determined amount of time (Title, column 2

lines 9-20, column 5 lines 6-18).

13.   Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention was made to modify the advertisement method of Blumenau with the teachings of

Guyot to include a step of adjusting timing in order to effectively present the advertisement to

users (column 7 lines 19-47) since when the user is performing other activities on the computer,

the probability of viewing an advertisement is relatively low (Guyot, column 1 lines 34-43).

14.   Regarding claim 2, Guyot disclosed a method wherein adjusting the timing comprises
adjusting an ad expiration tuning parameter configured to set the quantity of time for which an
advertisement is available for display (column 2 lines 9-13, column 4 lines 34-43, column 7 lines
1-6).

15.   Regarding claim 3, Guyot disclosed a method wherein adjusting the timing comprises
adjusting a maximum display count configured to set a maximum number of times an
advertisement may be displayed to a user viewing a batch of ads (column 2 lines 9-13, column 4
lines 34-43, column 7 lines 1-6).

16.   Regarding claim 4, Guyot disclosed a method wherein adjusting the timing comprises
adjusting a minimum display time configured to set a minimum amount of time that an
advertisement may be displayed before another advertisement is displayed (column 2 lines 9-13,
column 4 lines 34-67).

17.   Regarding claim 5, Guyot disclosed a method wherein adjusting the timing comprises
adjusting an idle delay configured to cause a delay from the time a user has gone idle before a
first advertisement is replaced with another advertisement (column 5 lines 6- 17, column 7 lines
49-56).

18.   Regarding claim 6, Guyot disclosed a method wherein adjusting the timing comprises
adjusting an active delay configured to cause a delay from the time a user goes active before
displaying another advertisement (column 5 lines 6- 17, column 7 lines 49-56).

19.   Regarding claim 7, Guyot disclosed a method wherein adjusting the timing comprises
adjusting an idle (no spin) parameter configured to stop the display of a first advertisement from
being replaced with the display of another advertisement after a user goes idle (column 5 lines 6-
17, column 7 lines 49-67).

20.   Regarding claim 8, Guyot disclosed a method wherein monitoring a viewer's interactions with an associated computer system comprises monitoring a use of a computer mouse (Abstract, column 2 lines 9-21, column 5 lines 6-18).

21.   Regarding claim 9, Guyot disclosed a method wherein monitoring a viewer's interactions with an associated computer system comprises monitoring a use of a computer keyboard (Abstract, column 2 lines 9-21, column 5 lines 6-18).

22.   Regarding claim 10, Guyot disclosed a method wherein monitoring a viewer's interactions with an associated computer system comprises monitoring the activity of any input devices connected to the subscriber system [an auditory signal such as the viewer's voice provided through a microphone] (column 7 lines 63-67, column 8 lines 1-1-4).

23.   Regarding claim 11, Guyot disclosed a method wherein the auditory signal is the viewer's voice (column 7 lines 63-67, column 8 lines 1-1-4).

24.   Regarding claim 12, Guyot disclosed a method wherein monitoring a viewer's interactions with an associated computer system comprises monitoring a maximization and a minimization status of a screen displaying advertising (column 2 lines 19-13, column 5 lines 6-11, lines 45-61).

25.   Regarding claim 13, Blumenau disclosed a method wherein monitoring a viewer's interactions with an associated computer system comprises monitoring a viewer's use of a device that sends an input, or causes an input to be sent, to the associated computer system (column 17 lines 24-35).

26.   Regarding claim 14, Guyot disclosed a method wherein the timing of displayed advertisements on a screen displaying advertising is configured to not switch between

advertisements if the screen displaying advertisements is minimized or occluded (column 5 lines

6-11, lines 45-61, column 12 lines 46-56).

27.   Regarding claim 64, Blumenau disclosed a method wherein monitoring wherein

monitoring the viewer's interactions with the associated computer system includes continually

monitoring the viewer's interactions with the associated computer program (column 10 line 65-

column 14, column 11 lines 18-29, column 16 lines 13-24).

28.   Regarding claim 65, Blumenau disclosed a method wherein monitoring the viewer's

interactions with the associated computer system includes monitoring the viewer's interactions

with the associated computer system that are unrelated to a manual adjustment of the timing of

the displayed advertisements (column 17 lines 24-35, column 18 lines 38-49, column 20 lines

23-36).

29.   Regarding claim 66, Guyot disclosed a method wherein adjusting the timing of the later

displayed advertisements includes varying lengths of time during which the advertisements are

displayed on an advertisements -by- advertisements basis (Title, column 2 lines 9-20, column 5

lines 6-18).

30.   Regarding claims 15-28 and 67-69, the computer program stored on a computer-readable

medium corresponds directly to the method of claim 1-14 and 64-66, and thus these claims are

rejected using the same rationale.

31.   Regarding claim 55, Blumenau and Guyot disclosed a method of optimizing a

click-through rate of a user viewing content in a computer network environment, the method

comprising: downloading advertisements and a set of tuning parameters to a user's computer,

wherein the set of tuning parameters are configured to cause a display of a first advertisement on

the user's computer to be changed to a display of another advertisement on the user's computer

by determining an amount of time to be used in the later displayed advertisement based on a

user's activity with respect to the user's computer (Guyot, Figure 6B, column 4 lines 34-67,

column 7 lines 49-57, column 13 lines 14-35; Blumenau, column 7 lines 58-65, column 13 lines

51-58, column 14 lines 7-19); storing click-through information for the advertisements (Guyot,

column 3 lines 55-65, column 4 lines 16-23); and sending the click-through information to a host

computer (Guyot, column 4 lines 16-23, column 6 lines 51-63).

32.   Regarding claim 56, Blumenau disclosed a method further comprising varying the tuning

parameters downloaded to the user's computer; and utilizing a correlation technique to determine

a correlation between the tuning parameters downloaded to the user's computer and the

click-through rate of the user (column 14 lines 7-19, column 16 lines 13-38, column 17 lines 24-

35, column 18 lines 38-56).

33.   Regarding claim 57, Blumenau disclosed a method further comprising setting another set

of tuning parameters based on the correlation between the tuning parameters and the user's click-

through rate (column 16 lines 13-38, column 17 lines 24-35, column 18 lines 38-56).

34.   Regarding clam 70, Guyot disclosed a method wherein the tuning parameters are

configured to vary lengths of time during which the advertisements are displayed on an

advertisement-by-advertisement basis (Title, column 2 lines 9-20, column 5 lines 6-18).

35.   Since all the limitations of the claimed invention were disclosed by the combination of

Blumenau and Guyot, claims 1-28, 55-57, and 64-70 are rejected.

Response to Arguments

36.   Applicants' arguments with respect to the pending claims have been considered but are

moot in view of the new ground(s) of rejection.

37.   Applicants' response to the application of Guyot et al. in Amendment filed 04/30/2004,

argued "Middleton and Guyot fail to describe or suggest *determining an amount of time to be*

used in later displaying advertisements on the viewer's associated computer system based on the

viewer's monitored interactions ". It is submitted that these limitations of the claimed invention

were disclosed by Blumenau as detailed in the above rejection, and Guyot et al. is relied upon to

combine the step of adjusting a timing of later displayed advertisements. Refer to the above

rejection for complete details.

38.   As the rejection reads, Examiner asserts that the combination of these teachings render

the claimed invention obvious.

Conclusion

39.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

        A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

40.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. Refer to the enclosed PTO-892 for details.

41.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Tam (Jenny) Phan whose telephone number is (703) 305-4665.

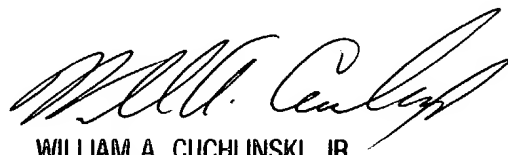The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, William Cuchlinski can be reached on 703-308-3873. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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tp
July 24, 2004

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